

103^D CONGRESS
2^D SESSION

S. 2539

To provide for the settlement of certain claims under the Alaska Native Claims Settlement Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 7 (legislative day, SEPTEMBER 12), 1994

Mr. MURKOWSKI (for himself and Mr. STEVENS) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To provide for the settlement of certain claims under the Alaska Native Claims Settlement Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION. 1. SHORT TITLE.**

4 This Act may be cited as the “Landless Native Land
5 Allocation Act of 1994”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) IN GENERAL.—Congress finds the following:

8 (1) In 1971, Congress enacted the Alaska Na-
9 tive Claims Settlement Act (43 U.S.C. 1601 et seq.)

1 (referred to in this section as the “Act”) to recog-
2 nize and settle the aboriginal claims of Alaska Na-
3 tives to the lands Alaska Natives had used for tradi-
4 tional purposes.

5 (2) The Act awarded approximately
6 \$1,000,000,000 and 44,000,000 acres of land to
7 Alaska Natives and provided for the establishment
8 of Native corporations to receive and manage such
9 funds and land.

10 (3) Pursuant to the Act, Alaska Natives have
11 been enrolled in one of thirteen Regional Corpora-
12 tions.

13 (4) Most Alaska Natives reside in communities
14 that are eligible to form a Village or Urban Corpora-
15 tion under the Act within the geographical area of
16 a Regional Corporation.

17 (5) Village or Urban Corporations established
18 pursuant to the Act received cash and surface rights
19 to the settlement land described in paragraph (2),
20 and the corresponding Regional Corporation received
21 cash and land which includes the subsurface rights
22 to the land of the Village or Urban Corporation.

23 (6) The southeastern Alaska communities of
24 Haines, Ketchikan, Petersburg, Tenakee, and
25 Wrangell are not listed under the Act as commu-

1 nities eligible to form Village or Urban Corporations,
2 even though the population of such villages com-
3 prises greater than 20 percent of the shareholders of
4 the Regional Corporation of southeastern Alaska
5 and display historic, cultural and traditional quali-
6 ties of Alaska Natives.

7 (7) The five communities described in para-
8 graph (6) have sought full eligibility for lands and
9 benefits under the Act for more than two decades.

10 (8) In 1993, Congress directed the Secretary of
11 the Interior to prepare a report examining the rea-
12 sons why the communities listed in paragraph (6)
13 had been denied eligibility to form Village or Urban
14 Corporations under the Act and receive land and
15 benefits pursuant to the Act.

16 (9) The report described in paragraph (8), pub-
17 lished in February, 1994, indicates that—

18 (A) the five communities listed in para-
19 graph (6) do not differ significantly from the
20 southeast Alaska communities that were per-
21 mitted to form Village or Urban Corporations
22 under the Act;

23 (B) such communities are similar to other
24 communities that are eligible to form Village or

1 Urban Corporations under the Act and receive
2 lands and benefits under the Act—

3 (i) in actual number and percentage
4 of Native Alaskan population; and

5 (ii) with respect to the historic use
6 and occupation of land;

7 (C) each such community was involved in
8 advocating the settlement of the aboriginal
9 claims of the community; and

10 (D) some of the communities appeared on
11 early versions of lists of Native villages pre-
12 pared before the date of enactment of the Act,
13 but were not included as Native villages in the
14 Act.

15 (10) The omissions described in paragraph
16 (9)(D) are not clearly explained in any provision of
17 the Act or the legislative history of the Act.

18 (11) On the basis of the findings described in
19 paragraphs (1) through (10), Alaska Natives who
20 were enrolled in the five unlisted communities and
21 their heirs have been inadvertently and wrongly de-
22 nied the financial and cultural benefits of enrollment
23 in a Village or Urban Corporation established pursu-
24 ant to such Act.

1 (b) PURPOSE.—The purpose of this Act is to redress
2 the omission of the five communities described in sub-
3 section (a)(6) from eligibility—

4 (1) to form Village or Urban Corporations
5 under the Act; and

6 (2) to receive certain settlement lands pursuant
7 to the Act.

8 **SEC. 3. LAND ENTITLEMENT.**

9 The Alaska Native Claims Settlement Act (43 U.S.C.
10 1601 et seq.) is amended by adding at the end the follow-
11 ing new section:

12 **“SEC. 40. LANDLESS NATIVES LAND ALLOCATION.**

13 “(a) DEFINITIONS.—As used in this section:

14 “(1) ADEQUATE AND FEASIBLE ACCESS.—The
15 term ‘adequate and feasible access’ includes—

16 “(A) direct access to lands conveyed to a
17 Landless Village Corporation pursuant to this
18 section from the nearest body of navigable salt
19 water if such lands are effectively blocked by
20 National Forest System lands or the existence
21 of one or more conservation system units, na-
22 tional recreation areas, national conservation
23 areas, or public lands designated as wilderness
24 study areas or managed to maintain the wilder-

1 ness character or potential wilderness character
2 of the land; and,

3 “(B) access to and use of roads, log trans-
4 fer facilities and other infrastructure features of
5 the United States Forest Service.

6 “(2) LANDLESS VILLAGE CORPORATION.—The
7 term ‘Landless Village Corporation’ means any of
8 the communities of Haines, Ketchikan, Petersburg,
9 Tenakee, and Wrangell, Alaska, that—

10 “(A) has incorporated under applicable
11 laws of the State of Alaska; and

12 “(B) has, pursuant to subsection (b), orga-
13 nized as a Village Corporation in accordance
14 with section 8.

15 “(3) REGIONAL CORPORATION OF SOUTHEAST-
16 ERN ALASKA.—The term ‘Regional Corporation of
17 southeastern Alaska’ means the Regional Corpora-
18 tion described in section 7(a)(10).

19 “(4) UNPROCESSED TIMBER.—The term ‘un-
20 processed timber’ means any tree, or portion of a
21 tree, or other roundwood that is not processed in ac-
22 cordance with standards and specifications suitable
23 for end product use.

24 “(b) STATUS OF CERTAIN COMMUNITIES AS NATIVE
25 VILLAGES.—Each of the Native communities of Haines,

1 Ketchikan, Petersburg, Tenakee, and Wrangell, Alaska,
2 shall be considered a Native village that is eligible to re-
3 ceive land and benefits under this Act (including funds
4 distributed under section 7) and each such community
5 may organize as a Village Corporation pursuant to section
6 8.

7 “(c) ENROLLMENT.—

8 “(1) IN GENERAL.—Unless specifically notified
9 otherwise, the Secretary shall enroll as a member of
10 a Landless Village Corporation each Native member
11 of the community that organizes as such Landless
12 Village Corporation.

13 “(2) SHARES FOR CERTAIN NATIVE MEMBERS
14 WHO WERE ENROLLED IN THE REGIONAL CORPORA-
15 TION OF SOUTHEASTERN ALASKA.—Each Native
16 member of a community described in subsection (b)
17 who—

18 “(A) is enrolled in a Landless Village Cor-
19 poration pursuant to paragraph (1), and

20 “(B) on or before March 30, 1973, was en-
21 rolled as a shareholder of the Regional Corpora-
22 tion of southeastern Alaska,
23 shall receive 100 shares of Settlement Common
24 Stock in the Landless Village Corporation.

1 “(3) CERTAIN OTHER NATIVES.—Each Native
2 member of a community described in subsection (b)
3 who—

4 “(A) is not a shareholder described in
5 paragraph (2)(B), but

6 “(B) received, by means of inheritance or
7 gift, shares of stock in the Regional Corpora-
8 tion of southeastern Alaska that originally be-
9 longed to a Native who, on or before March 30,
10 1973, was enrolled as a shareholder of the Re-
11 gional Corporation of southeastern Alaska, and,
12 if alive, would be enrolled in a Landless Village
13 Corporation pursuant to paragraph (1),

14 shall receive a number of shares of Settlement Com-
15 mon Stock in the appropriate Landless Village Cor-
16 poration equal to the number of shares of stock of
17 such Regional Corporation that the Native inherited
18 or received by gift pursuant to subparagraph (B).

19 “(d) LAND WITHDRAWAL, SELECTION, AND CONVEY-
20 ANCE.—

21 “(1) IN GENERAL.—The Secretary is authorized
22 and directed to withdraw from all forms of appro-
23 priation under the public land laws, including the
24 mining and mineral leasing laws, all eligible public
25 lands described in paragraph (3). During the 5-year

1 period beginning on the date of the withdrawal, each
2 Landless Village Corporation shall nominate for se-
3 lection public lands for conveyance to the Landless
4 Village Corporation pursuant to this section.

5 “(2) WITHDRAWAL.—The withdrawal of land
6 described in paragraph (1) shall not be made, or
7 deemed to have been made, in accordance with or
8 subject to sections 11, 14, or 16. Such withdrawal
9 shall be considered to be a separate withdrawal au-
10 thorized and directed by this subsection. The Sec-
11 retary shall make the withdrawal not later than 60
12 days after the date of enactment of this section. The
13 lands shall, subject to such withdrawal, remain with-
14 drawn until all selection and conveyances are com-
15 pleted pursuant to this section.

16 “(3) PUBLIC LANDS ELIGIBLE FOR SELEC-
17 TION.—Subject to paragraph (4), the public lands
18 eligible for selection for conveyance to a Landless
19 Village Corporation pursuant to this Act shall be the
20 lands located within the Regional Corporation of
21 southeastern Alaska, except that such public lands
22 shall not include lands—

23 “(A) within a conservation system unit de-
24 scribed in section 101 of the Alaska National

1 Interest Lands Conservation Act (16 U.S.C.
2 3101);

3 “(B) within the timber base described in
4 the 1979 Tongass National Forest Land Man-
5 agement Plan;

6 “(C) withdrawn or reserved for national
7 defense purposes; or

8 “(D) selected by a Regional, Village, or
9 Urban Corporation pursuant to this Act and
10 the State of Alaska under the Act commonly
11 known as the ‘Alaska Statehood Act’ (48
12 U.S.C. note prec. 21).

13 “(4) VALID EXISTING RIGHTS.—The lands se-
14 lected for conveyance to a Landless Village Corpora-
15 tion pursuant to this Act, shall be subject to valid
16 and existing rights and the patent rights described
17 in section 14(g).

18 “(5) ACREAGE.—The quantity of acreage of
19 public lands that may be selected for a Landless Vil-
20 lage Corporation on the basis of nominations made
21 by the Landless Village Corporation pursuant to this
22 subsection shall be—

23 “(A) based on the number of Natives en-
24 rolled in the Landless Village Corporation; and

1 “(B) determined in accordance with the
2 table contained in section 14(a), except that the
3 date of establishment of the Landless Village
4 Corporation shall be substituted for the date
5 specified in such table.

6 “(6) REVIEW OF NOMINATED SELECTIONS.—

7 (A) The Secretary, in consultation with the Sec-
8 retary of Agriculture, shall review the nominations
9 for selection of public lands made by a Landless Vil-
10 lage Corporation pursuant to this subsection to de-
11 termine whether any conflict exists between the
12 nominations of the Landless Village Corporation and
13 any other nominations or selections made by any
14 other Landless Village Corporation or entity.

15 “(B) Except with respect to nominations for se-
16 lections of public lands made pursuant to this sub-
17 section by the Landless Village Corporation of the
18 community of Ketchikan, Alaska, any conflict be-
19 tween the nominations for selection of public lands
20 made by a Landless Village Corporation pursuant to
21 this subsection and the nominations made by an-
22 other Landless Village Corporation pursuant to this
23 subsection shall be resolved by the Secretary in favor
24 of the Landless Village Corporation that is located

1 closest to the lands that are the subject of the con-
2 flict.

3 “(7) CONVEYANCE OF LANDS.—Immediately
4 after the review of each nomination for a selection
5 made by a Landless Village Corporation and the res-
6 olution of any conflicts described in paragraph (6)
7 carried out pursuant to this subsection, the Sec-
8 retary shall select and convey, subject to the terms
9 and conditions specified in this section—

10 “(A) to the Landless Village Corporation
11 that makes the nomination for the selection, a
12 patent to the surface estate in the lands nomi-
13 nated for selection by the Landless Village Cor-
14 poration; and

15 “(B) to the Regional Corporation of south-
16 eastern Alaska, a patent to the subsurface es-
17 tates of the lands.

18 “(e) ACCESS TO CONVEYED LANDS.—

19 “(1) IN GENERAL.—The Secretary of Agri-
20 culture or the head of an appropriate Federal agen-
21 cy shall take such actions as may be necessary to en-
22 sure that each Landless Village Corporation and its
23 assigns have such rights as may be necessary to en-
24 sure adequate and feasible access to the lands con-
25 veyed to the Landless Village Corporation pursuant

1 to this section for economic, cultural, and traditional
2 purposes.

3 “(2) PERMIT APPLICATIONS.—In carrying out
4 this subsection, the appropriate head of a Federal
5 agency shall grant, in a reasonable and timely man-
6 ner, any permit application submitted to the agency
7 head relating to access to and from lands conveyed
8 to a Landless Village Corporation pursuant to this
9 section.

10 “(3) NATIONAL ENVIRONMENTAL POLICY ACT
11 EXEMPTION.—Notwithstanding any other provision
12 of law, the construction of a road or other infra-
13 structure project or any related activity to provide
14 adequate and feasible access to lands conveyed to a
15 Landless Village Corporation pursuant to this sec-
16 tion that is carried out by the head of a Federal
17 agency or any other person or entity shall not con-
18 stitute a major Federal action for the purposes of
19 section 102 of the National Environmental Policy
20 Act of 1969 (42 U.S.C. 4332) and shall not be sub-
21 ject to any requirement under such Act relating to
22 an environmental assessment or environmental im-
23 pact statement.

24 “(f) GRANTS.—

1 “(1) IN GENERAL.—The Secretary is authorized
2 to award a grant in an amount equal to \$250,000
3 to each Landless Village Corporation that submits
4 an application to the Secretary that is approved by
5 the Secretary. If an application submitted to the
6 Secretary pursuant to this paragraph specifies that
7 the Landless Village Corporation will use the grant
8 award in accordance with this subsection, the Sec-
9 retary shall approve the application in a reasonable
10 and timely manner.

11 “(2) PURPOSE OF GRANT.—A grant awarded
12 under this subsection may only be used for planning,
13 development, or any other purpose for which the
14 Landless Corporation that is the recipient of the
15 grant has been organized under section 8.

16 “(g) PROHIBITION ON EXPORT OF UNPROCESSED
17 TIMBER.—

18 “(1) IN GENERAL.—Except as provided in para-
19 graph (2), notwithstanding any other provision of
20 law, the lands conveyed by the Federal Government
21 pursuant to this section shall be conveyed on the
22 condition that unprocessed timber from such lands
23 may not be exported from the southeast region of
24 Alaska served by the Regional Corporation of south-
25 eastern Alaska.

1 “(2) EXEMPTIONS.—(A) The prohibition con-
2 tained in paragraph (1) shall not apply to those
3 grades of unprocessed red and yellow cedar timber
4 that the Secretary of Agriculture determines to be
5 surplus to the needs and demands of manufacturing
6 facilities in the region described in such paragraph.

7 “(B) Not later than 1 year after the date of en-
8 actment of this section, and annually thereafter, the
9 Secretary of Agriculture, in consultation with the
10 Secretary of Commerce and after providing public
11 notice and an opportunity for comment, shall make
12 a determination under subparagraph (A) concerning
13 which grades of unprocessed cedar timber described
14 in such subparagraph constitute timber that is sur-
15 plus to the needs and demands of manufacturing fa-
16 cilities.

17 “(3) PENALTY.—If the Secretary of Commerce
18 finds, on the record and after an opportunity for a
19 hearing, that a person, with willful disregard for the
20 prohibition contained in this section against export-
21 ing unprocessed timber, exported or caused to be ex-
22 ported unprocessed timber originating from lands
23 conveyed pursuant this section, the Secretary may
24 assess against such person a civil penalty of not

1 more than 2 times the gross value of the unproc-
2 essed timber involved in the violation.

3 “(h) STATUTORY CONSTRUCTION.—To the extent
4 that there is any conflict between this section and any
5 other provision of this Act or any other Federal law, this
6 section shall govern.”.

○

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